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8 UNITED STATES BANKRUPTCY COURT
9
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 In re:) Case No.:19-30319
13) Chapter 13
14 Ophelia Alvarez)
15)
16) MEMORANDUM OF POINTS AND
17) AUTHORITIES
18 Debtors.)
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17 The purpose of Federal Rule 59(e) is to permit the
18 correction of any manifest errors of law or fact that are
19 discovered, upon reconsideration, by the trial court. Thus, a
20 court, under this rule, may amend, amplify or expand upon its
21 initial findings even to the extent that the modified or
22 additional findings in effect reverse the initial ruling."
23 *NationsBank v. Blier (In re Creative Goldsmiths)*, 178 B.R. 87,
24 91 (Bankr. D.Md.1995) (citing *National Metal Finishing v.*
25 *Barclaysamerican*, 899 F.2d 119, 123 (1st Cir.1990)). The BAP
26 considers a motion for reconsideration filed within 14 days to
27 be a motion to "alter or amend the judgment" within the meaning
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1 of FRBP 8002(b). *Shapiro ex rel. Shapiro v. Paradise Valley*
2 *Unified Sch. Dist.*, 374 F.3d 857, 863 (9th Cir. 2004).

3 Under Fed. R. Civ P. Rule 60(b), a court may relieve a
4 party from a final judgment, order or proceeding only in the
5 following circumstances. See Fed. R. Civ. P. 60(b); see also *De*
6 *Saracho v. Custom Food Mach., Inc.*, 206 F.3d 874, 880 (9th Cir.
7 2000) (noting that a district court's denial of Rule 59 and Rule
8 60(b) motions is reviewed for an abuse of discretion). FRCP
9 60(b)(1), which is incorporated in the Bankruptcy Code via Fed.
10 R. Bankr. P. 9024, provides in pertinent part as follows:

11 Grounds for Relief from a Final Judgment, Order, or
12 Proceeding. On motion and just terms, the court may relieve a
13 party or its legal representative from a final judgment,
14 order, or proceeding for the following reasons:

15 (1) mistake, inadvertence, surprise, or excusable neglect;

16 (2) newly discovered evidence that, with reasonable diligence,
17 could not have been discovered in time to move for a new trial
18 under Rule 59(b);

19 (3) fraud (whether previously called intrinsic or extrinsic),
20 misrepresentation, or misconduct by an opposing party;

21 (4) the judgment is void;

22 (5) the judgment has been satisfied, released or discharged;
23 it is based on an earlier judgment that has been reversed or
24 vacated; or applying it prospectively is no longer equitable;

25 (6) any other reason that justifies relief

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27 /s/ Jason Honaker, Attorney for Debtor
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